

DEVELOPMENT CONTROL COMMITTEE – 29 July 2003

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications

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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the Planning Services Manager's report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Planning Services Manager, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other

29/07/2003

Item 1.1**Reg. No.** 9 2003 0035 F**Applicant:**

S M Property Developments Ltd
 C/O 76 Commerce Street
 Melbourne
 Derbyshire
 DE73 1FT

Agent:

Hall Grey Architects Limited
 The Mill
 Lodge Lane
 Derby
 DE1 3HB

Proposal: The erection of 5 detached houses and garages together with the formation of an access Land Being Former Carpark The Factory Cockshut Lane Melbourne Derby

Ward: Melbourne

Valid Date: 14/01/2003

Site Description

The site is the rear car park to a former shoe factory, which has now been sub-divided to form small business units. There is residential development on three sides and the site is in the village confine. The business units also have a small car park off Commerce Street.

Proposal

Initially proposing five dwellings covering the entirety of the car park the application has been amended as follows:

- Four dwellings are proposed
- 11 parking spaces for the factory are retained within the application site and 5 additional spaces are provided off Commerce Street to serve the exiting business units.
- The house designs are amended.
- The siting of the houses relative to neighbours is changed, to have regard to supplementary planning guidance.

The development would affect a public right of way and this is shown to be subject to diversion on the submitted plan.

Applicant's Supporting Information

- a) The proposal includes 27 parking spaces in total for the exiting factory.
- b) The house types and footprints are amended to suit design guidance and space about dwellings standards.

- c) The road layout is amended to reflect "Roads in Housing" and the public footpath would be 1.8 metre wide, open on one side.
- d) The additional car parking spaces off Commerce Street are formed by using space currently occupied by operational floorspace.

Responses to Consultations

With the exception of the Highway Authority all responses are based on the initial consultation. Any additional comments arising from re-consultation will be reported verbally. The period for response expires today.

Councillor Harrison raises the following concerns:

- a) There would be loss of light and overlooking to adjacent properties.
- b) The car park is in regular use. Development of the site would add unacceptably to the existing traffic problems in Commerce Street.
- c) The impact on the public footpath.
- d) The excessive density of the proposal.

The Parish Council objects as follows:

- a) The factory car park should be retained.
- b) The public footpath should be retained.
- c) Guidelines with regard to light should be strictly applied.

Melbourne Civic Society objects as follows:

- a) The layout is too cramped and amenity space is inadequate.
- b) The alignment of the footpath would be inadequate and inappropriate and not consistent with guidelines on crime prevention.
- c) The development would be out of character with the area and detrimental to the privacy of occupiers. Curtilage buildings would be visible from the road.
- d) There would be unmaintainable areas.
- e) The design of the houses is poor.
- f) Four houses may be acceptable.

Whilst initially objecting to the loss of parking and the proposed specification of the realigned footpath the Highway Authority finds the amended proposal acceptable, subject to conditions.

Responses to Publicity

All responses are based on the initial consultation. Any additional comments arising from re-consultation will be reported verbally. The period for response expires today.

13 letters/emails have been received objecting in the following terms:

- a) There would be loss of privacy and light and the development would overbear on neighbours.
- b) The development would be out of character with the area.
- c) There would be health and safety issues for the factory, including emergency access.
- d) The car park is not disused as implied in the application. It is regularly used.
- e) Loss of parking would add to existing congestion and danger in Commerce Street.

- f) There would be loss of trees and a hedge.
- g) The proposal may ultimately lead to loss of the factory with detrimental effect on the local economy.
- h) There would be loss of views.
- i) There would be increased use of Commerce Street for deliveries by heavy goods vehicles.
- j) There would be adverse impact on the public footpath, which is regularly used.
- k) Allowing further development when there is threat of increased noise from East Midland Airport would not be in accord with PPG24.
- l) Local schools have no capacity for children from the proposed houses.
- m) A rubbish skip would need to be relocated.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 1 & 3, Environment Policy 17 and Housing Policy 5.

Local Plan: Housing Policies 5 & 11.

Draft Local Plan: Housing Policy 1 and Environment Policy 21.

Planning Considerations

The main issues central to the determination of this application are:

- The principle of development.
- Impact on the general character of the area.
- Residential amenity.
- Highway safety and parking.
- Public footpath.
- Trees

Planning Assessment

The site lies in the village confine and is previously used land. Therefore the site meets the criteria for presumption in favour of development.

The design of the new dwellings does not seek to imitate the character of more traditional buildings in South Derbyshire. Nevertheless the site is immediately adjacent to a large suburban style estate and the dwellings would be of similar character. Therefore this style of development is not out of keeping with its surroundings. It would appear as a small extension to the Spinney Hill estate.

The amended proposal meets the requirements of supplementary planning guidance (subject to conditions requiring certain windows to be obscure glazed) and the impact on neighbours is therefore acceptable.

The retention of part of the car park and increased facilities at the Commerce Street access have negated earlier objections in respect of parking for the existing factory units. The access and parking arrangements for the new houses are acceptable.

The proposal makes provision for the diversion of the existing public right of way. The part to be diverted passes through the car park. The character of the right of way would not be materially harmed. There is a requirement on the applicant to seek a formal footpath diversion under Section 257 of the 1990 Act even if planning permission is granted.

Whilst the formation of the access would result in the loss of some small trees at the front of the site their amenity value is not sufficient to require their retention.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 2406 A1 10 Rev C received 23 June 2003 (and with regard to House Type C as further amended by the agent's letter and drawing received 15 July 2003) and drawing nos. 2466 A1 24, 25, 26 & 27 received 15 July 2003.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
3. Reason: To safeguard the appearance of the existing building and the locality generally.
4. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
4. Reason: In the interests of the appearance of the area.
5. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
5. Reason: To protect the amenities of adjoining properties and the locality generally.
6. The windows in the north side elevation to House Type C and the window to Bedroom 2 of House Type C shall be permanently glazed in obscure glass and the same windows shall be permanently hinged in accordance with a specification that shall have previously been submitted to and approved in writing by the Local Planning Authority.

6. Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
7. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
7. Reason: In the interests of the appearance of the area.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
8. Reason: In the interests of the appearance of the area.
9. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.
9. Reason: To ensure that adequate parking/garaging provision is available.
10. Before the commencement of any construction works, additional parking for 5 No vehicles off Commerce Street, in accordance with a scheme first submitted to and approved in writing with the Local Planning Authority, shall be provided and shall remain available for its designated use in perpetuity.
10. Reason: In the interests of highway safety.
11. Before the commencement of construction of dwellings, the factory car parking area for 11 vehicles off Cockshut Lane shall be laid out and constructed with a solid, bound material and brought into use and shall remain available for its designated use in perpetuity.
11. Reason: In the interests of highway safety.
12. Prior to the first use of the development hereby permitted, the land in advance of the sight lines shown drawing no. 2466 10 Rev C shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.
12. Reason: In the interests of highway safety.
13. Before consent is given, a scheme for disposal of highway surface water via a positive gravity-fed system discharging to an outfall in public sewer, highway drain or watercourse shall be submitted to and approved by the Local Planning Authority. The system shall be provided in accordance with the approved details before the development is first occupied.
13. Reason: In the interests of highway safety.

14. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided as may be approved by the Local Planning Authority and used to prevent the deposition of mud or extraneous material on the public highway.
14. Reason: In the interests of highway safety.
15. Before the commencement of any construction works, the new estate street junction onto Cockshut Lane shall be laid out and constructed to basecourse level in accordance with a scheme first submitted to and approved in writing with the Local Planning Authority.
15. Reason: In the interests of highway safety.
16. Dwellings shall not be occupied until the proposed estate street has been laid out in accordance with the application drawings as amended, to conform with the County Council's Roads in Housing design guide and constructed at least to basecourse level, including footways, drained and lit in accordance with the County Council's Specification for Housing Development Roads, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
16. Reason: In the interests of highway safety.
17. Before the occupation of the dwelling to which it relates, private driveways serving dwellings must be laid out and constructed and surfaced with a solid bound material in order to avoid the transfer of loose material onto the highway.
17. Reason: In the interests of highway safety.

Informatives:

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

29/07/2003

Item 1.2**Reg. No.** 9 2003 0477 F**Applicant:**

Mr Mrs I Beaumont
83, Egginton Road
Etwall
Derby
DE65 6NP

Agent:

D. Burd
David T. Burd, R.I.B.A.
St. Matthews House
Brick Row
Darley Abbey
DERBY
DE3 1DQ

Proposal: The erection of two detached dwellings and a chalet bungalow
at 83 Egginton Road Etwall Derby

Ward: Etwall

Valid Date: 17/04/2003

Site Description

The site comprises the side and rear garden of a substantial detached dwelling on the 'old' Egginton Road. There are no physical barriers between the site and the house. The north boundary is a mix of hedges and walls both of varying heights. The east boundary is a hedge about 1.6 metres high that then turns along the south boundary at heights varying between 1.8 metres and 2.4 metres. The frontage to Egginton Road is a mix of hedges and walls, the wall is quite low. There are various trees in the grounds that would be lost because of the development.

The dwellings either side of the site are substantial Victorian/Edwardian semi detached villas with windows in both their side elevations. Both these dwellings are three storeys as is the existing dwelling in the applicant's control. To the north east of the site lie two modern dwellings permitted in the 1990's, one of which lies in the former orchard to the house that is the subject of this application.

Proposal

The application as originally submitted proposed three dwellings would be sited to the rear of the large dwelling. Access would be provided by means of a separate drive with a turning head off the 'old' Egginton Road. There is sufficient room for this access between the existing dwellings. The dwellings would be set behind the house and would be of a similar design with windows located in varying positions to avoid overlooking of adjacent dwelling windows. The applicants propose that the dwellings be constructed in red-buff brick, dark blue roof tiles with red-buff tile hangings.

Since the application was submitted it has been amended to reflect concerns raised during the consultation process.

The access has been amended to avoid removing the Lime Trees on the site frontage, the comments of the County Highways Authority on the practicability of this proposal will be reported at the meeting.

The most northerly of the proposed dwelling has been changed to a chalet bungalow to reduce the potential impact on the dwelling immediately to the north of the application site.

The tile hanging has been omitted from the application and all the dwellings would be constructed in red brick with a 'small scale' tile to the roofs.

Planning History

Permission was granted for one dwelling in the grounds of this house in the late 1990's. It is served via an access on Common End.

Responses to Consultations

Etwell Parish Council objects to the application as there is insufficient room to accommodate them and objectors make this point with some clarity

The County Highways Authority has no objection subject to the access being put in place, no loose material within 5 metres of Egginton Road, provision of parking and the provision visibility splays.

The Environment Agency has no comment.

Responses to the reconsultation will be reported at the meeting

Responses to Publicity

14 letters have been received objecting to the development for the following reasons:

- a) There has been a lack of proper consultation with neighbours, one who has a common boundary with the site was not consulted. The plans are being kept secret. [There is a common boundary that may belong to the complainant but it is not readily apparent that this is the case. The actual dwelling lies beyond the normal consultation distance and there would be no direct impact on that dwelling - at most, it is a common boundary to a remote part of the garden of that dwelling.]
- b) There would be no objection to a single or perhaps two houses in the grounds but three modern dwellings would be out of character with this imposing Victorian dwelling and ruin its setting. This is a well-maintained area of Victorian houses and villas. The Hollies needs a substantial setting, as it is a substantial house. The demolition of outbuildings demonstrates that there is not enough room for the development. The application is totally without merit
- c) The proposal demonstrates the greed of developers. The proposal would lead to indiscriminate infilling if permitted
- d) Planners should preserve and enhance the areas for which they are responsible, have souls and care about the aesthetic nature of planning permission and act with taste and decency.
- e) The proposed access would create a hazard given its location next to the 'T' junction on Egginton Road. It would create a crossroads.
- f) The loss of substantial trees including limes and a black walnut to form the access and build the dwellings should be resisted. They should have preservation orders placed upon them. The

applicants have already substantially thinned the planting on the south boundary and it can not be described as being dense and substantial as it is on the application plan.

- g) The grant of permission would be illegal, as it would involve granting permission on some land not belonging to the applicants. These owners would never give permission for development on their land. The owners have stated that they have been assured that a mistake has been made and that the plan should be amended.
- h) The dwelling would affect the line of services to an adjoining dwelling.
- i) Development should respect the building line and not be behind and to the side of existing houses.
- j) The development would overshadow the adjacent gardens and conservatory, plunging it into darkness for most of the day, this is an unacceptable loss of sunlight and there would be a loss of outlook from the garden. The dwelling to the south has most of its main windows facing north and thus overlooks the drive at only 8 metres. The drive should be moved to 21 metres away in accordance with adopted standards.
- k) There would be windows overlooking adjacent dwellings at a distance of less than 16 metres. This is a gross intrusion into the privacy of a well-established property.

Responses to the reconsultation will be reported at the meeting.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 2 & 3; Housing Policy 5

Local Plan: Housing Policy 5; Environment Policy 9

Emerging Local Plan: Policies ENV 8, 21(B); H1(II).

Planning Considerations

The main issues central to the determination of this application are:

- The Development Plan – is the land brownfield within the settlement framework, if so then is it an important open space that is worthy of preservation because of its prominence from public vantage points?
- The access to the site
- The impact on adjacent dwellings
- The loss of trees – lime and walnut.

Planning Assessment

The land clearly constitutes brownfield land as defined in Planning Policy Guidance Note 3. It lies within the settlement framework for Etwall in both the adopted and emerging Local Plan policy documents.

In these circumstances the policies Environment Policy 9 and ENV 8 state that development will be resisted if the land in question is a prominent open site within villages that contribute to the character of the settlement.

From most public vantage points the site is screened by existing tree and shrub planting, most of it put in place by the Highways Agency as part of the accommodation works. In addition, there are trees, limes, on the frontage to the site that play an important role in screening the site.

particularly at this time of year. These trees are now to be retained as part of the proposals. There is the possibility that some of the trees may be damaged whilst development takes place but the majority would be retained.

The retention of the trees and the access making use of the gap between the dwellings mean that the existing space between the dwellings would be retained. It would also mean that the most prominent of the dwellings would be screened, completely in the summer and partially in the autumn and winter months.

Although there the setting of the building would be significantly altered, for the reasons set out above, the refusal of the development of the site based on the loss of an important open space within the village would not be sustainable at appeal. The site is not and would not be visible from wider public vantage points.

The houses and bungalow have been designed to ensure that the Council's Space about Dwellings standards are met. The living accommodation in the bungalow, closest to the adjacent dwellings, is on the three sides that face away from that dwelling. In respect of the next nearest adjacent dwelling, views between the site and that dwelling would be screened at ground floor level by a fence (a condition is recommended to ensure that this is in place before occupation of the dwelling and is so retained) and this complies with policy. The first floor windows lie beyond the distances specified in Supplementary Planning Guidance and thus conforms to policy.

At the south end of the site the proposed dwelling also has a controlled aspect and the distances between windows complies with adopted standards. The middle dwelling has bedroom windows looking towards the applicants dwelling but again the distance between the first floor windows comply with standards. There are no groundfloor windows in the applicants dwelling affected by the application.

The County Highways Authority comments on the revised access will be reported at the meeting.

The final main issue is the loss of the trees. There is also a large walnut tree in the rear garden and whilst this is a fine specimen it is not of any wider visual amenity value. The tree would be lost if the application were to be permitted but its retention would be difficult to defend. However, as stated above, most of the relatively prominent limes on the road frontage, would be retained as part of the application. If the layout were adjusted to accommodate the walnut, the development of the site to its full potential would be lost. Other trees to the south at Grove Park are protected and it would be possible to place an order on the frontage trees. A replacement walnut tree could be planted elsewhere on the site as part of any landscaping scheme.

Given all of these issues, it is considered that the development of the site as proposed could not reasonably be resisted.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the submitted details, no part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos 826/201/A; 202/A; 203/A; 204/A & 205.
3. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. The submitted scheme shall make provision for the planting of a replacement Walnut tree (*Juglans Regia*) in a position that will minimise impact on existing and potential dwellings.
4. Reason: In the interests of the appearance of the area.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. Reason: In the interests of the appearance of the area.
6. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed by the Local Planning Authority in accordance with its published standards. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.
6. Reason: To ensure that adequate parking/garaging provision is available.
7. Prior to the first occupation to which it relates the access shall be laid out and constructed and surfaced with a solid bound material for a distance of 5 metres from the carriageway edge and shall incorporate measures to prevent the flow of surface water onto the highway.
7. Reason: In the interests of highway safety.

8. Prior to the occupation of any dwelling on the site, the access road and vehicle turning area shall be provided as indicated on the approved drawing 826/202/A. The turning area shall remain unobstructed and available for its designated use.
8. Reason: In the interests of highway safety.
9. The fencing shown on Drawing no 826/202/A along the north boundary of the site shall be provided before the occupation of the dwelling 85A
9. Reason: In the interests of maintaining privacy between dwellings.
10. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
10. Reason: To protect the amenities of adjoining properties and the locality generally.
11. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
11. Reason: In the interests of the appearance of the area.

Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.